

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

PEGGY TENCZA,

Plaintiff,

vs.

CIVIL NO. 09-430 JH/LFG

S.R. KOEHNKE et al.,

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LIMITED
DEPOSITIONS OF OFFICERS YARA, STEPHENSON AND WERLEY**

THIS MATTER comes before the Court on Plaintiff's Unopposed Motion for Limited Depositions [Doc. 18], filed June 23, 2009.

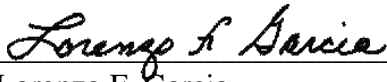
There is currently a stay of discovery in effect in this case. [Doc. 16]. Plaintiff Peggy Tencza ("Tencza") requests, however, that she be allowed to take the depositions of Defendants Officer Johnny Yara, Officer Holly Stephenson, and retired officer Bruce Werley, Sr. to enable her to respond to Defendants' Motion for Summary Judgment [Doc. 12], which is based on assertions of qualified immunity and other grounds. Tencza states that the Motion for Limited Depositions is made in lieu of filing a Rule 56(f) affidavit. Defendants do not oppose the request.

The Court finds that good cause has been shown to grant the motion. However, in accord with the requirement of Maxey by Maxey v. Fulton, 890 F.2d 279, 283 (10th Cir. 1989) that the inquiry be "narrowly tailored to uncover only those facts needed to rule on the immunity claim," the allowable scope of depositions is restricted to questions concerning what the officers knew, what information they had and what they did, as relevant to the question of qualified immunity in this case, up until the time they filed the criminal complaints described in Plaintiff's Complaint.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Limited Depositions [Doc. 18] is granted, subject to the following restrictions:

Plaintiff may take the depositions of Defendants Yara, Stephenson and Werley on July 30, 2009. Absent extraordinary circumstances, these three Defendants must make themselves available on that date. Each deposition is limited to two hours. The scope of the depositions is limited as described above.

IT IS FURTHER ORDERED that the standard response and reply time for Defendants' Motion for Summary Judgment, as set forth in the Court's Local Rules, will be in effect and will begin to run on July 30, 2009.



Lorenzo F. Garcia
Chief United States Magistrate Judge